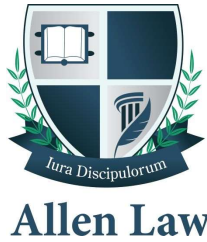


# EXHIBIT O



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**July 31, 2020**

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**RE: Timothy Jackson, Distinguished University Research Professor of Music Theory, the Journal for Schenkerian Studies, and the Center for Schenkerian Studies**

Dear Chair of the Board of Regents, Chancellor Roe, Provost Cowley, Dean Richmond, and Professor Brand,

I am writing on behalf of my client, Distinguished University Research Professor of Music Theory Timothy Jackson.

JACKSON000255

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In response to Professor Jackson's wholly protected expression of his academic freedom and freedom of speech in the Journal of Schenkerian Studies ("JSS"), certain faculty and graduate students of the University of North Texas have launched a pretextual petition and defamatory campaign to remove him from his tenured position, eliminate the Journal of JSS, which he has contributed to editing for almost 20 years, and eliminate the Center for Schenkerian Studies (the "Center") as "racist" or insufficiently "anti-racist." This morning, Dean Jon Richmond announced that the school will conduct a full "investigation." Ironically, the JSS has always been student edited, to give graduate students valuable academic experience, subject to the supervision of Professor Jackson and Professor Stephen Slottow (also a tenured professor). Unfortunately, this "investigation" sends the message that UNT will act to suppress free and open academic debate.

On or around July 30, 2020, faculty under the apparent leadership of Rebecca Dowd Geoffrey-Schwinden, Assistant Professor of Music History, have circulated a petition, which I attach as **Exhibit A** ("Petition"). In addition to carrying the name of Professor Geoffrey-Schwinden, the petition carries the signatures of 16 other professors of UNT. It also incorporates by reference a self-styled "call for action outlined in our students' letter," a concurrent graduate student petition circulating is a public document at the following website: <https://drive.google.com/.../1PekRT8tr5RXWRTW6Bqdaq57svq.../view>. The graduate student petition has apparently been spearheaded by musicology student Rachel Gain.

The graduate students, who may perhaps be excused for reacting under the tutelage of obviously misguided mentors and teachers, demand that UNT:

Hold accountable every person responsible for the direction of the publication. This will involve recognizing both whistleblowers and those who failed to heed them in this process. This should also extend to investigating past bigoted behaviors by faculty and, by taking this into account, the discipline and potential removal of faculty who used the JSS platform to promote racism. Specifically, the actions of Dr. Jackson—both past and present—are particularly racist and unacceptable.

I attach this document here as **Exhibit B**.

The faculty parrots their students' rhetoric, in what can only be described as a witchhunt, condemning my client and the JSS in the following terms:

The forthcoming issue [of JSS]—a set of responses to Dr. Philip Ewell's plenary lecture at the 2019 Society for Music Theory annual meeting—is replete with racial stereotyping and tropes, and includes personal attacks directed at Dr. Ewell. ... the epistemic center of the journal issue lies in a racist discourse that has no place in any publication, especially an academic journal. The fact that he [Ewell] was not afforded the opportunity to respond in print is unacceptable, as is the lack of a clearly defined peer-review process. We endorse the call for action outlined in

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our students' letter (<https://drive.google.com/.../1PekRT8tr5RXWRTW6Bqdaq57svq.../view>), which asks that the College of Music "publicly condemn the issue and release it freely online to the public" and "provide a full public account of the editorial and publication process, and its failures." Responsible parties must be held appropriately accountable.

This directly violates UNT's Policy 06.035 Academic Freedom and Academic Responsibility, which states that UNT will "assure and protect academic freedom within the governing framework of the institution, and it is the responsibility of faculty members to ensure that their actions fall under appropriate academic responsibility..." Policy 06.035 also ensures "[t]he right to academic freedom and the demands of academic responsibility apply equally to all faculty members at UNT." And it defines, "Academic Freedom" as "the right of members of the academy to study, discuss, investigate, teach, conduct research and/or creative activity, and publish, perform, and/or display their scholarship freely as appropriate to their respective UNT-assigned roles and responsibilities." Among other things, Policy 06.035 requires "respect for diverse personalities, perspectives, styles and demographic characteristics, and maintenance of an atmosphere of civility."

The faculty and graduate student witchhunt against Professor Jackson, his Center, and the JSS is in clear violation of this policy. Therefore, please consider this letter a formal submission of a grievance on behalf of Professor Jackson as provided under UNT's Policy 02.1400 Reporting Suspected Wrongdoing and 03.1001 Employee Grievances. Professor Jackson met with his immediate supervisor, Department Chair Benjamin Brand on July 26, 2020. Despite clear evidence that faculty and graduate students were organizing to violate Professor Jackson's constitutional and contractual protections to academic freedom and free speech, Department Chair Brand responded only that the "issue is larger than the department" and has taken no action to defend Professor Jackson. A copy of this request is also being sent to the Human Resources Department through the Provost, as provided under Policy zero 3.1001(2)(b).

Please remember as well that Professor Jackson has the right, under UNT's Policies to be free of retaliation. (See e.g. Policy 02.1000 Compliance and Integrity Policy, § 8.) The current investigation of him and the JSS is clearly retaliation under UNT's policies.

The gravamen of the dispute falls firmly within the boundaries of normal academic discord and the disputation of ideas; which is to say, there should be no dispute over supposed "ethics" violations at all. The dispute revolves around a plenary address to the Society for Music Theory delivered by Professor Philip Ewell during its annual conference November 7-10, 2019. That address is available here: <https://vimeo.com/372726003>. The protests by faculty and students that publishing scholarly debate in the JSS is somehow "unethical" threatens to undermine the integrity of academic discourse itself.

Professor Ewell 2019 address made what Professor Jackson and many other scholars in music theory considered to be willful misinterpretations of the work of Heinrich

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Schenker (1868-1935), an Austrian Jew born in what is now the Ukraine part of the then slowly failing state of the Austrian Empire.

Professor Ewell's argument is that not only was Schenker a "virulent racist" but that his music theory (known as Schenkerian Analysis) is systemically and irredeemably racist. By extension, those who have studied it and promoted it within the discipline of music theory are, by implication, complicit in an irredeemably racist project. The only appropriate response, in the eyes of those who have now embarked upon a mission to purge this alleged systemic racism, is categorical acquiescence to Professor Ewell's argument and some sort of self-abnegation before the charge of "whiteness."

Therefore, according to faculty and graduate students who would condemn him, Professor Jackson is guilty of some kind of original sin because he dissents from this view. But nothing is "racist" about objecting to Professor Ewell's argument that it is racist "among ... white persons [that] the music and music theories of whites from German-speaking lands of the eighteenth, nineteenth, and early-twentieth centuries represent the pinnacle of music-theoretical thought." Nor did the JSS violate any norms of academic publication in inviting debate on this topic. Professor Ewell was to be given an opportunity to respond in the 2020 volume—just as normal scholarly discourse and debate would dictate. Instead, students and faculty now call upon the university to cancel Professor Jackson, the Center, and JSS.

In crafting the JSS's thoughtful call for papers, distributed by email list to the entire Society for Music Theory, which includes Professor Ewell (who could have *but did not* submit any contribution to Volume 12 of the JSS); Professor Jackson took pains to point out, "Most of us would agree that there are too few blacks and women in the field of music theory, and that it is desirable to try to recruit more." Professor Jackson's contribution to Volume 12 even calls for more resources to be dedicated to educating minority and disadvantaged students in music and music theory from the earliest possible age.

Ironically, none of these issues now raised with such faux righteous indignation against Professor Jackson were ever raised amongst the editorial staff of JSS, not by its student editor Benjamin Graff, not by Professor Ellen Bakulina (a student of Professor Ewell's on friendly terms with him), nor by Diego Cubero. The latter is himself a person of color and immigrant from central America to the United States who is devoted to the very German romanticism and music theory that Professor Ewell now condemns for "systemic" racism and "white framing."

As explained in Professor Jackson's short article, Professor Ewell has willfully ignored the transformation of Schenker's thought throughout the politically and culturally tumultuous time in which he lived as well as Schenker's own confrontation with systemic racism both in Europe and by his students in the United States.

Schenker died in Vienna before Austria was annexed to Nazi Germany; but he glimpsed the ugliness of Nazi Germany's persecution of the Jews, which would soon claim many of his own students and family members in the Holocaust. His own confrontation with

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truly “virulent” racism altered his views on race—which were thoroughly conventional at the time—so that at the end of his life he wrote that “music is accessible to all races and creeds alike. He who masters such progressions in a creative sense, or learns to master them, produces art which is genuine and great.” In the abstruse logic of Professor Jackson’s academic critics, however, claims to the universal appeal of music and universal accessibility of music theory are themselves manifestations of a so-called “white frame” of racism.

The work done by the Center and Professor Jackson in combating racism is unimpeachable. Assassinating Professor Jackson’s character as “racist” willfully ignores his work in rescuing all but lost compositions and the work of composers persecuted by Nazi Germany. At the time, the work of these composers such as Paul Kletzki was condemned as racially inferior, but it has now been resurrected and performed thanks to the work of the Center. In 2011, the performance of Kletzki’s music was recognized with a Grammy nomination (of Piano Professor Joseph Banowetz), bringing recognition to the Center and UNT.

The current attempts to destroy Professor Jackson, abolish the Center, and strip Professor Jackson of his position and the JSS not only directly violates University of North Texas (“UNT”) policies. The university’s investigation of these preposterous allegations clearly violates Professor Jackson’s constitutional rights under the United States Constitution and Texas Constitution's Bill of Rights as well as his contractual rights vis-à-vis UNT.

As numerous courts have held, even an investigation undertaken in retaliation for a public employee’s exercise of his or her First Amendment rights has an impermissible chilling effect on speech that violates the First Amendment. See *White v. Lee*, 227 F.3d 1214 (9th Cir. 2000); *Levin v. Harleston*, 966 F.2d 85 (2d Cir. 1992); *Baumann v. District of Columbia*, 744 F. Supp. 2d 216 (D.D.C. 2010).

This kind of retaliation is actionable in Texas under state and federal law. *Hudson v. Board of Regents of Tex. S. Univ.*, No. 4:05-CV-03297, 2009 U.S. Dist. LEXIS 126630, at \*11 (S.D. Tex. Apr. 14, 2009) (denying motion for new trial where “verdict meant that Plaintiffs would not have had their rights violated but for their protected constitutional activity” and where “evidence also demonstrated considerable animus toward Plaintiffs by Defendants, because they were outspoken and, quite possibly, because of their political sympathies”); *Ward v. Lamar Univ.*, 484 S.W.3d 440, 454 (Tex. Ct. App. 2016) (reversing lower court for dismissing free-speech retaliation claim against university); *DePree v. Saunders*, 588 F.3d 282, 289 (5th Cir. 2009) (reversing summary judgment in favor of university on free-speech retaliation claim of professor targeted by fellow faculty for making them “not feel safe”).

Finally, please be advised that you are hereby given notice not to destroy, conceal or alter anything related to this matter. This includes but is not limited to notes, memoranda, emails and electronic messaging, voice mails, text messages, or any other private messages exchanged with any individual, organization or party regarding Professor Jackson, including faculty and graduate students who are currently organizing the current witchhunt against him.

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This includes all data created with the use of smart phones or tablet devices, and all internet and web-browser-generated history files, caches and “cookies” generated. If relevant documents are presently in a garbage can, shredding bin, a “Deleted Items” email folder, or their functional equivalents, you are directed to retrieve and preserve such documents.

Although Professor Jackson is confident that UNT must have a current policy not to delete or destroy any record of such matters, be advised that this notice is effective immediately upon receipt. If this matter were to evolve into a complaint against you in a court of law, your failure to comply with this notice could result in severe sanctions being imposed by the court for spoliation of evidence or potential evidence.

To avoid spoliation, UNT will need to provide the data requested in its original form on the original media. Please do not reuse any media to preserve this data.

To assure that UNT’s obligations to preserve documents and things will be met, please forward a copy of this letter to all persons and entities with custodial responsibility for the items referred to in this letter, including the faculty and graduate students identified in the attached Petitions.

Thank you for your cooperation in this matter. Should you have any questions, or want to discuss this matter further, please contact me directly. Professor Jackson wishes above all to be able to pursue his scholarship and serve UNT as he has done for the last two decades, with distinction and by providing scholarship of the highest caliber. He has no wish to tarnish the reputation or position of fellow faculty or graduate students, but only to see them respect the most fundamental standards of professional decency and civility. It is frankly outrageous that a respected and established scholar should become the victim of a crusade in the name of a vague and specious charge of “racism” over what should be easily recognized as an ordinary dispute over scholarship.

Sincerely,



Michael Thad Allen